

State of Missouri Office of Secretary of State

Case No. AP-08-33

IN THE MATTER OF:

MARK VIII HOLDINGS, LLC A/K/A
MARK VIII HOLDING COMPANY A/K/A
MARK VIII, LLC;
INTERNATIONAL MARK VIII, LLC;
GARY ROBERT DOSS; and
MICHAEL D. ADAMOVICH,

Respondents.

Serve: Mark VIII Holdings, LLC at:
P.O. Box 640
Smithville, Missouri 64089
and
P.O. Box 240
Smithville, Missouri 64089

Serve: International Mark VIII, LLC at:
907 Coventry Court
Warrensburg, Missouri 64093

Serve: Gary Doss at:
4424 Lowman Road
Smithville, Missouri 64089-8562

Serve: Michael Adamovich at:
400 Selby Avenue #414
St. Paul, Minnesota 55102

ORDER TO CEASE AND DESIST AND ORDER TO SHOW CAUSE WHY CIVIL PENALTIES AND COSTS SHOULD NOT BE IMPOSED

On December 11, 2008, the Enforcement Section of the Securities Division of the Office of Secretary of State, through its Assistant Commissioner of Securities Mary S. Hosmer, submitted a Petition for Order to Cease and Desist and Order to Show Cause Why Civil Penalties and Costs Should Not Be Imposed. After reviewing the petition, the Commissioner issues the following findings of fact, conclusions of law and order:

I. FINDINGS OF FACT

1. Mark VIII Holdings, LLC; a/k/a Mark VIII Holding Company; a/k/a Mark VIII, LLC (“Mark VIII”) is a Missouri limited liability company organized on April 11, 2003. Mark VIII was organized for the purpose of operating an investment club. Mark VIII has an address of P.O. Box 640, Smithville, Missouri 64089, but is physically located at 4424 Lowman Road, Smithville, Missouri 64089-8562.
2. International Mark VIII, LLC (“Mark International”) is a Missouri limited liability company organized on December 21, 2004. Mark International was organized to provide consulting services to manufacturing companies. Mark International has an address of 907 Coventry Court, Warrensburg, Missouri 64093.
3. Gary Robert Doss (“Doss”) is an organizer of Mark VIII and Mark International and has an address of 4424 Lowman Road, Smithville, Missouri 64089-8562.
4. Michael D. Adamovich (“Adamovich”) is an organizer of Mark VIII and has a last-known address of 400 Selby Avenue #414, St. Paul, Minnesota 55102.
5. From at least June 2003 through June 2007, a Missouri resident (“MR”), worked for Mark VIII as an independent contractor marketing a computerized management system and providing consulting services to companies that purchased the management system from Mark VIII.
6. In 2003, Doss told MR, among other things, that:
 - a. Doss invested money for some of the employees at Mark VIII;
 - b. the funds he had invested had been doubling approximately every six months; and
 - c. in the worst case he would double investors’ money every twelve months.
7. MR understood that these investments were to be placed in a Mark VIII brokerage account (“Brokerage Account”).
8. From June 10, 2003, to January 26, 2006, MR invested sixty-nine thousand, two hundred and twenty-five dollars (\$69,225) with Doss and Adamovich through Mark VIII and Mark International.
9. MR stated, among other things, that prior to her investments with Doss, Adamovich, Mark VIII and/or Mark International, MR:
 - a. did not receive any background information regarding Doss, Adamovich, Mark VIII or Mark International;
 - b. did not receive any financial information regarding Doss, Adamovich, Mark VIII or Mark International;
 - c. did not receive records or information regarding the specific investments Doss, Adamovich, Mark VIII or Mark International were to make on her behalf; and
 - d. was not informed by Doss, Adamovich, Mark VIII or Mark International that there was a penalty to withdraw her funds from this Brokerage Account.

10. Subsequent to MR's investments with Doss, Adamovich, Mark VIII and/or Mark International, MR stated, among other things, that MR:
 - a. was not contacted by Doss prior to any investment made in the Brokerage Account;
 - b. id not receive any trade confirmations from the Brokerage Account; and
 - c. id not receive monthly statements evidencing the returns generated by the funds she invested in the Brokerage Account.
11. On or about December 28, 2004, Doss sent MR an email which stated, in part, the following:

“ . . . our investments group that you are a part of is [sic] setting a play in Jan for contracts, but we buy in \$30,000 blocks. 6 month [sic] is a good stock play. There are good mid cap stocks that will do well in the next 6 months, China is out building [sic] the USA right now and companies that have contracts with China will do well in 6 month [sic]. I will get you a list of stock plays. You can add this to our group and take it out in 6 months”
12. In the summer of 2005, MR requested a withdrawal of ten thousand dollars (\$10,000) from her Brokerage Account.
13. On or about July 11, 2005, Doss issued a check to MR from the Mark VIII business account in the amount of ten thousand dollars (\$10,000).
14. MR received this check in July 2005. The memo section of this July 11, 2005, check stated: “Investment Removal/[MR] Account/Code 21.”
15. MR received an undated statement on Mark VIII letterhead, titled, *Mark VIII Brokerage Account Statement*, showing that MR's money was invested in “cash equivalents.”
16. Sometime prior to June 4, 2007, MR asked Doss for a withdrawal of all of MR's funds from the Brokerage Account.
17. On or about June 4, 2007, Doss sent MR an email stating, in part, the following:

“ . . . I run 6 9 12 [sic] months [sic] futures. We leverage the index at the high and lows for maximum returns. You would not want to take any money out any soon. [sic] It would be to [sic] costly. But if need money, [sic] you need money”
18. In June 2007, MR did not receive the return of her funds but received information from Doss indicating, among other things, that:
 - a. MR's Brokerage Account balance was eighty-nine thousand, five hundred and sixty-seven dollars and sixty-three cents (\$89,567.63);
 - b. if the funds from this Brokerage Account were converted to cash prior to

December 31, 2007, the balance would be forty-seven thousand, six hundred and seventy-eight dollars and forty-nine cents (\$47,678.49); and

c. MR's Brokerage Account contained:

- i. 1.8% Money Market Funds;
- ii. 11.6% Equities / Options;
- iii. 33.5% Mutual Funds;
- iv. 44.4% Fixed Income Securities;
- v. 5.6% Insurance Annuities; and
- vi. 2.5% REITs/Tangibles.

19. In August 2007, MR again contacted Doss and stated that MR wanted to withdraw her funds from the Brokerage Account.
20. In August 2007, Doss advised MR that if she moved her funds from the Brokerage Account that Doss would return "just what [MR] had put in. You will not have any loss's [sic] or gains. The risk of loss is still with me till Jan 2008"
21. As of December 2008, MR has not received the return of her funds from the Brokerage Account.
22. On or about February 26, 2008, the Division sent a letter of inquiry to Doss via certified mail. The letter requested information regarding the offerings and, among other things, any claims of exemptions relied upon in selling securities in the State of Missouri.
23. This February 26, 2008, letter from the Division was received by Doss on March 4, 2008.
24. Doss has not responded to the Division's inquiry of February 26, 2008.
25. In May and June 2008, an investigator with the Division obtained bank records for the following bank accounts:
 - a. the Mark VIII account at the First Bank of Smithville in Smithville, Missouri;
 - b. the Mark International account at Citizens Bank & Trust in Chillicothe, Missouri 64601; and
 - c. the Doss bank account at Community America Credit Union in Kansas City, Missouri 64153.
26. Doss was the signatory on all of these bank accounts (the "Doss Bank Accounts").
27. A review of the Doss Bank Accounts revealed that Doss cashed three (3) of MR's investment checks totaling ten thousand, five hundred dollars (\$10,500) and that Doss deposited fifty-eight thousand, seven hundred twenty-five dollars (\$58,725) into the

business accounts for Mark VIII and Mark International. These funds were used by Doss for business and personal expenses.

28. A check of the records maintained by the Missouri Commissioner of Securities confirmed that:
 - a. Doss was not registered as a securities agent in Missouri; and
 - b. Mark VIII and Mark International were not registered as broker-dealers in Missouri.

II. STATUTORY PROVISIONS

29. Section 409.6-601(a), RSMo. (Cum. Supp. 2007), provides that the Missouri Securities Act of 2003 “shall be administered by the commissioner of securities”
30. Section 409.1-102(1), RSMo. (Cum. Supp. 2007), defines “Agent” as “an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer’s securities.”
31. Section 409.1-102(4), RSMo. (Cum. Supp. 2007), defines “Broker-dealer” as “a person engaged in the business of effecting transactions in securities for the account of others or for the person’s own account.”
32. Section 409.1-102(26), RSMo. (Cum. Supp. 2007), defines “Sale” to include, “every contract of sale, contract to sell, or disposition of, a security or interest in a security for value.” That same section defines “offer to sell” as “every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value.”
33. Section 409.1-102(28), RSMo. (Cum. Supp. 2007), provides the definition of a “Security.” Under that definition are included, among other things: “stock;” “evidence of indebtedness;” and “investment contract.”
34. Section 409.3-301, RSMo. (Cum. Supp. 2007), states:

It is unlawful for a person to offer or sell a security in this state unless:

1. The security is a federal covered security;
 2. The security, transaction, or offer is exempted from registration under sections 409.2-201 to 409.2-203; or
 3. The security is registered under this act.
35. Section 409.4-401(a), RSMo. (Cum. Supp. 2007), states:

It is unlawful for a person to transact business in this state as a broker-dealer unless the person is registered under this act as a broker-dealer or is exempt from registration as a broker-dealer under subsection (b) or (d).

36. Section 409.4-402(a), RSMo. (Cum. Supp. 2007), states:

It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection (b).

37. Section 409.4-402(d), RSMo. (Cum. Supp. 2007), states:

It is unlawful for any broker-dealer or an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection (a) or exempt from registration under subsection (b).

38. Section 409.5-501, RSMo. (Cum. Supp. 2007), states:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

1. To employ a device, scheme, or artifice to defraud;
2. To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading;
or
3. To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

39. Section 409.6-604(a), RSMo. (Cum. Supp. 2007), states:

If the commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has materially aided . . . an act, practice or course of business constituting a violation of this act . . . the commissioner may:

1. Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary and appropriate to comply with this act;
2. Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under section 409.4-401(b)(1)(D) or (F) or an investment adviser under section 409.4-403(b)(1)(C);
or
3. Issue an order under section 409.2-204.

40. Section 409.6-604(d), RSMo. (Cum. Supp. 2007), states:

In a final order . . . the commissioner may impose a civil penalty up to one thousand dollars (\$1,000) for a single violation or up to ten thousand

dollars (\$10,000) for more than one violation.

41. Section 409.6-604(e), RSMo. (Cum. Supp. 2007), provides the following:

In a final order, the commissioner may charge the actual cost of an investigation or proceeding for a violation of this act or a rule adopted or order issued under this act. These funds may be paid into the investor education and protection fund.

III. CONCLUSIONS OF LAW

Multiple Violations of Offering and Selling Unregistered, Nonexempt Securities

42. Paragraphs 1 through 41 are incorporated by reference as though fully set forth herein.
43. Respondents offered and sold a security as those terms are defined in Sections 409.1-102 (26) and (28), RSMo. (Cum. Supp. 2007).
44. At all times relevant, records maintained by the Commissioner of Securities contained no registration, granted exemption or notice filing indicating status as a “federal covered security” for the investments offered and sold by Respondents.
45. Respondents violated Section 409.3-301, RSMo. (Cum. Supp. 2007), when they offered and sold securities in Missouri without these securities being (1) a federal covered security, (2) exempt from registration under Sections 409.2-201 or 409.2-202, RSMo. (Cum. Supp. 2007), or (3) registered under the Missouri Securities Act of 2003.
46. Respondent’s offer and sale of unregistered securities constitute an illegal act, practice, or course of business and such action is therefore subject to the commissioner’s authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).

Multiple Violations of Transacting Business as an Unregistered Agent

47. Paragraphs 1 through 41 are incorporated by reference as though fully set forth herein.
48. At all times relevant, records maintained by the Missouri Commissioner of Securities contained no registration or granted exemption for Respondent Doss to transact business as an agent in the State of Missouri.
49. Respondent Doss violated Section 409.4-402(a), RSMo. (Cum. Supp. 2007), when he offered or sold securities in the State of Missouri without being registered or exempt from registration as an agent.
50. Respondent Doss’ action in transacting business as an unregistered agent constitutes an illegal act, practice, or course of business and such action is therefore subject to the commissioner’s authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).

Multiple Violations of Transacting Business as an Unregistered Broker-Dealer

51. Paragraphs 1 through 41 are incorporated by reference as though fully set forth herein.
52. At all times relevant, records maintained by the Missouri Commissioner of Securities contained no registration or granted exemption for Respondent Mark VIII or Respondent Mark International to transact business as a broker-dealer in the State of Missouri.
53. Each of Respondent Mark VIII and Respondent Mark International violated Section 409.4-401(a), RSMo. (Cum. Supp. 2007), when they offered or sold securities in the State of Missouri without being registered or exempt from registration as a broker-dealer.
54. The actions of Respondent Mark VIII and Respondent Mark International in transacting business as an unregistered broker-dealer constitute an illegal act, practice, or course of business and such actions are therefore subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).

Multiple Violations of Employing an Unregistered Agent

55. Paragraphs 1 through 41 are incorporated by reference as though fully set forth herein.
56. Each of Respondent Mark VIII and Respondent Mark International employed an agent who effected transactions in the account of a Missouri investor. These activities constitute transacting business in the State of Missouri.
57. Respondent Mark VIII and Respondent Mark International have not registered any agents in the State of Missouri.
58. Each of Respondent Mark VIII and Respondent Mark International violated Section 409.4-402(d), RSMo. (Cum. Supp. 2007), when they employed an unregistered agent who transacted business in the State of Missouri.
59. Employing an unregistered agent who transacted business in this state constitutes an illegal act, practice, or course of business and such action is therefore subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).

Multiple Violations of Making an Untrue Statement or Omitting to State Material

Facts in Connection with the Offer or Sale of a Security

60. Paragraphs 1 through 41 are incorporated by reference as though fully set forth herein.
61. In connection with the offer or sale of securities to MR, Respondents made the following untrue statements of material fact:

- a. MR's Brokerage Account balance was eighty-nine thousand, five hundred and sixty-seven dollars and sixty-three cents (\$89,567.63); and
- b. MR's Brokerage Account contained:
 - i. Money Market Funds;
 - ii. 11.6% Equities / Options;
 - iii. 33.5% Mutual Funds;
 - iv. 44.4% Fixed Income Securities;
 - v. 5.6% Insurance Annuities; and
 - vi. 2.5% REITs/Tangibles,

When, in fact, these statements were not true.

62. In connection with the offer or sale of securities to MR, Respondents omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to:

- a. that the Respondents were not registered to offer or sell securities in the State of Missouri;
- b. background information on Doss, Adamovich, Mark VIII or Mark International;
- c. financial information on Doss, Adamovich, Mark VIII or Mark International;
- d. records or information regarding the specific investments Doss, Adamovich, Mark VIII or Mark International were to make on MR's behalf;
- e. that there was a penalty to withdraw MR's funds from this Brokerage Account;
- f. that MR would not be contacted by Doss prior to any investment made in the Brokerage Account;
- g. that MR would not receive any trade confirmations from the Brokerage Account;
- h. that MR would not receive monthly statements evidencing the returns generated by the funds she invested in the Brokerage Account;
- i. that some of MR's funds would be deposited into the Doss Bank Accounts and used for business and personal expenses; or
- j. that some of MR's funds would be cashed by Doss.

63. Respondents' actions in making untrue statements and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under

which they were made, not misleading, in connection with the offer, sale or purchase of a security, constitute a violation of Section 409.5-501, and are illegal acts, practices, or courses of business under Section 409.6-604(a), RSMo. (Cum. Supp. 2007).

64. This order is in the public interest and is consistent with the purposes of the Missouri Securities Act of 2003.

IV. ORDER

NOW THEREFORE, it is hereby order that the Respondents, their agents, employees and servants, and all other persons participating in or about to participate in the above-described violations with knowledge of this Order are prohibited from:

- A. offering or selling any securities, as defined by Section 409.1-102(28), RSMo. (Cum. Supp. 2007), in the State of Missouri unless those securities are registered with the Securities Division of the Office of the Secretary of State in conformance with the provisions of Section 409.3-304, RSMo. (Cum. Supp. 2007);
- B. transacting business as an unregistered broker-dealer as defined in Section 409.4-401, RSMo. (Cum. Supp. 2007);
- C. transacting business as an unregistered agent as defined in Section 409.4-402(a), RSMo. (Cum. Supp. 2007);
- D. employing an unregistered agent as defined in Section 409.4-402(d), RSMo. (Cum. Supp. 2007); and
- E. violating or materially aiding in any violation of Section 409.5-501, RSMo. (Cum. Supp. 2007), by, in connection with the offer or sale of securities, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make a statement made, in light of the circumstances under which it is made, not misleading or engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2007), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against each Respondent individually for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2007), in a final order, unless Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2007), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) each against Respondent Mark VIII and Respondent Mark International for multiple violations of Section 409.4-401, RSMo. (Cum. Supp. 2007), in a final order, unless those Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2007), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against

Respondent Doss for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2007), in a final order, unless Respondent Doss requests a hearing and shows cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2007), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) each against Respondent Mark VIII and Respondent Mark International for multiple violations of Section 409.4-402(d), RSMo. (Cum. Supp. 2007), in a final order, unless those Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2007), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against each Respondent for multiple violations of Section 409.5-501, RSMo. (Cum. Supp. 2007), in a final order, unless Respondents request a hearing and show cause why the penalty should not be imposed.

IT IS FURTHER ORDERED that, as the Enforcement Section has petitioned for an award for of costs of the investigation against Respondents in this proceeding, the Commissioner will issue a final order pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2007), awarding an amount to be determined after review of evidence submitted by the Enforcement Section, unless Respondents request a hearing and show cause why such an award should not be made.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,
MISSOURI THIS 22ND DAY OF DECEMBER, 2008.

ROBIN CARNAHAN
SECRETARY OF STATE

(Signed/Sealed)
MATTHEW D. KITZI
COMMISSIONER OF SECURITIES



State of Missouri
Office of Secretary of State

Case No. AP-08-33

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Serve: Michael Adamovich at:
400 Selby Avenue #414
St. Paul, Minnesota 55102

NOTICE

TO: Respondents and any unnamed representatives aggrieved by this Order:

You may request a hearing in this matter within thirty (30) days of the receipt of this Order pursuant to Section 409.6-604(b), RSMo. (Cum. Supp. 2007), and 15 CSR 30-55.020.

Within fifteen (15) days after receipt of a request in a record from a person or persons subject to this order, the Commissioner will schedule this matter for a hearing.

A request for a hearing must be mailed or delivered, in writing, to:

**Matthew D. Kitzi, Commissioner of Securities
Office of the Secretary of State, Missouri
Kirkpatrick State Information Center
600 West Main Street, Room 229
Jefferson City, Missouri, 65102.**

CERTIFICATE OF SERVICE

I hereby certify that on this 22ND day of December, 2008, copies of the foregoing Order and Notice in the above styled case was **mailed by certified U.S. Mail, postage prepaid, to:**

Mark VIII Holdings, LLC
P.O. Box 640
Smithville, Missouri 64089
and
P.O. Box 240
Smithville, Missouri 64089

Serve International Mark VIII, LLC
907 Coventry Court
Warrensburg, Missouri 64093

Serve Gary Doss
4424 Lowman Road
Smithville, Missouri 64089-8562

Serve Michael Adamovich
400 Selby Avenue #414
St. Paul, Minnesota 55102

And hand-delivered to:

Mary S. Hosmer
Assistant Commissioner

John Hale, Specialist